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11
12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO

15 **BRADLEY M. HIXON,**

16 Plaintiff,

17 v.

18 **CORRECTIONAL OFFICER J. CRUZEN,**

19 Defendant.

CASE NO. CV 07-6078 WHA

**DECLARATION OF
COUNSEL IN SUPPORT OF
DEFENDANT'S EX-PARTE
REQUEST FOR EXTENSION
OF TIME**

20
21 I, Cynthia C. Fritz, declare as follows:

22 1. I am an attorney admitted to practice before the courts of the State of California and
23 before this Court. I am employed by the California Attorney General's Office as a Deputy
24 Attorney General in the Correctional Law Section, and I am assigned to represent Defendant J.
25 Cruzen (Defendant) in this case. I am competent to testify to the matters set forth in this
26 Declaration, and if called upon to do so, I would and could so testify.

27 2. On January 10, 2008, the U.S. Marshal sent a request for a waiver of service of
28 summons for Defendant to the litigation coordinator at Salinas Valley State Prison. On January

1 15, 2008, Defendant received the request for waiver of service of summons. On March 3, 2008,
2 the waiver of service of summons was signed and mailed to the U.S. Marshal. According to Rule
3 4(d)(3) of the Federal Rules of Civil Procedure, Defendants have until May 2, 2008, sixty (60)
4 days from the date the waiver was sent, to file an answer to the complaint.

5 3. Alternatively, The U.S. District Court's Order, entitled *Order of Service*, was filed on
6 January 8, 2008. In this Order, the Court directed the Defendant to file a motion for summary
7 judgment or other dispositive motion "[n]o later than sixty (60) days from the date of service."
8 As such, the Court has requested Defendant to file a dispositive motion at an earlier date, (March
9 11), than Defendant would be required to file an answer under the Federal Rules of Civil
10 Procedure, assuming the order was served by the Marshal on January 10 when the request for
11 waiver of service was mailed.

12 4. I have begun to review this case. Documents and institutional records that will be
13 needed for a proper assessment of the case and potentially for filing a dispositive motion have
14 been requested from prison officials.

15 5. In order to adequately file a dispositive motion or determine that one is not warranted, I
16 will need to obtain additional documents and institutional records in order to further investigate
17 Plaintiff's claims. Therefore, I request a fifty-nine (59) day extension of time, up to and
18 including May 9, 2008, to file Defendant's motion for summary judgment or other dispositive
19 motion, or to inform the Court that this case cannot be resolved by such a motion.

20 6. Additionally, I have been involved in other matters that required attention between the
21 date I was assigned the case, February 5 and May 9 including:

22 A. *L.H. et al v. Schwarzenegger*, Case No. 2:06-CV-02042: (USDC-ED, class action)
23 Disclosure of expert witnesses, on-going discovery requests and responses, motions to compel
24 discovery, approximately 10 scheduled depositions, and several meetings with the settlement
25 referee.

26 B. *Jeffrey Holloway v. W. Cohen et al.*, Case No. C 00-20644: (USDC-ND)
27 Settlement Conferences before Magistrate Vadas.

28 C. *Marvin Hollis v. Medina*, Case No. C 07-2980, (USDC-ND)

1 Motion to dismiss, response to request for admissions, and motion to stay discovery.

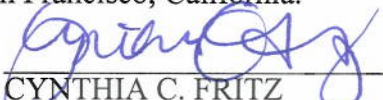
2 D. Marvin Hollis v. Caplan, Case No. C-06-2790 (USDC-ND)

3 Motion to dismiss and motion to stay.

4 7. Plaintiff is confined in state prison and cannot easily be contacted concerning an
5 extension of time.

6 8. This request for an extension of time is not made for any purpose of harassment or
7 undue delay or for any improper reason.

8 I declare under penalty of perjury that the foregoing is true and correct and that this
9 declaration was executed on March 5, 2008, in San Francisco, California.

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11 CYNTHIA C. FRITZ
12 Deputy Attorney General
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